

**Government of the District of Columbia**  
**ZONING COMMISSION**



**ZONING COMMISSION ORDER NO. 830**  
**Case No. 96-16C**  
**(PUD & Map - Prevocational School Site)**

**September 15, 1997**

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 5, 1997. At that session, the Zoning Commission considered an application from the New Jersey and H Limited Partnership. The application requested approval of a planned unit development (PUD) and a related zoning map amendment, pursuant to the provisions of Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

**FINDINGS OF FACT**

1. The application, which was filed on December 26, 1990, requested consolidated review and approval of a PUD and Zoning Map amendment from C-2-A and R-4 to C-3-C for Lots 190-193 in Square 523 located on the northeast corner of New Jersey Avenue and H Street, N.W. The project is nearly identical to a PUD and rezoning for the same site approved by Zoning Commission Order No. 680, December 17, 1990.
2. The PUD site contains approximately 161,670 square feet of land area, and is bounded by H Street on the south, New Jersey Avenue on the west, I Street to the north, and by the Gonzaga playing fields and tennis courts to the east. The site has a frontage of 445.92 feet along H Street, NW, 340.93 feet along New Jersey Avenue and 538.92 feet along I Street.
3. The ground of the PUD site is owned by the District of Columbia. It has been leased to the applicant under a 99-year ground lease for development.
4. The PUD site would be developed with three office buildings and a day care center-nursery school-tutoring facility. A

mixture of general office and retail uses, as permitted in the C-3-C Zone District, would be provided.

5. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and maximum height limit of three stories/40 feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.
6. The C-2-A District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum FAR of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 per cent for residential uses.
7. The C-3-C District permits matter-of-right major business and employment centers of medium/high density development, including office, retail, housing and mixed uses to a maximum height of 90 feet, a maximum FAR of 6.5 for residential and other permitted uses, and a maximum lot occupancy of 100 percent.
8. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may also impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified above for height, FAR, lot occupancy, parking, and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
9. The District of Columbia Generalized Land Use Map Element of the Comprehensive Plan for the National Capital identifies the PUD site as being included in the medium-high density commercial land use category.
10. The property is located in an area containing a variety of uses, including office, industrial, government, commercial, retail, residential and educational. To the west are a large expressway and office buildings. To the east are office buildings and to the south is the Government Printing Office.

11. In the last several years there has been considerable activity in upzoning commercial sites from C-M-3 and other classifications to C-3-C. As noted above, a PUD and rezoning substantially identical to this zoning application was approved for the subject site on December 17, 1990 (Z.C. Case No. 90-13C, Order No. 680). The PUD and rezoning was allowed to expire for several reasons, among them the fact that one of the principal partners of the partnership died after a protracted illness.
12. In November 1989, the Zoning Commission approved a planned unit development for office use at 800 North Capitol Street. The building is 114 feet in height and has an FAR of 9.55, excluding the penthouse. This included a rezoning to C-3-C from R-4 and C-2-A for Lot 184 in Square 623 and part of Lot 837 (Record Lot 88) in Square 622. (See, Z.C. Case No. 89-14C, Order Nos. 645 and 645-A)
13. In 1985, in Case No. 84-6 and by Z.C. Order No. 450, the Zoning Commission granted a rezoning request made by the Redevelopment Land Agency ("RLA") for property located in Squares 675, 676 and 677. In that case, the Commission rezoned a parcel of property containing 201,062 square feet of land from C-M-3 to C-3-C.
14. Similarly, in July, 1986, in Case No. 86-1 and by Z.C. Order No. 570, the Zoning Commission granted approval of a rezoning request made by several owners of property located in Squares 675 and 676 to rezone 163,147 square feet of land from C-M-3 to C-3-C.
15. The applicant proposes rezoning to C-3-C. The C-3-C District is designed to accommodate important subcenters supplementary to the business district. The proposed zoning change and increased FAR to approximately 7.0 would enable the applicant to build three commercial structures appropriate to the site and compatible with the Government Printing Office across H Street which is 169.19 feet high, including penthouses.
16. This increase in FAR is within the PUD guideline of 8.0. The project would be in keeping with the C-3-C office development on the east side of North Capitol Street at Union Center Plaza and the Center for Public Administration building at the southeast corner of the intersection of North Capitol and

H Streets. This rezoning also parallels the rezoning to C-3-C of the site at 800 North Capitol in the same square to the east. In addition, it is consistent with the June 9, 1997, proposed action of the Zoning Commission to approve the rezoning of a portion of the square, including this PUD site to C-3-C. (Zoning Commission Case No. 96-12Z, Zoning Consistency Project, Part 2).

17. The applicant indicated that the three office buildings (A, B, and C) and the day care center-nursery school-tutoring facility would contain 221,050, 519,520, 381,320, and 9,800 square feet of gross floor area, respectively. Each office building would have a penthouse of approximately 15,000 square feet.
18. The heights of buildings A, B and C would not exceed 87, 108 and 121 feet, respectively, excluding the penthouses. These different heights are caused by changes in street elevations. The cornice line of all three buildings would align with the cornice line of 800 North Capitol Street. The height of the penthouse would not exceed 18'6" or exceed a FAR of .37. The apparent height of each building would be approximately 15 feet less than the actual height because the top floor of each would be set back behind the cornice line.
19. The combined lot occupancy would not exceed 88 percent.
20. No rear yard would be required for the project.
21. The three buildings A, B and C would include parking spaces for approximately 140, 306 and 210, respectively, consisting of full-size, compact and handicapped spaces. The number of loading spaces for the project would be in accordance with the supplemental memorandum of May 8, 1997, marked as Exhibit No. 33 in the record.
22. The number of loading spaces for the project would be in accordance with the supplemental memorandum of May 8, 1997, marked as Exhibit No. 33 in the record.
23. The applicant indicated that the design of the project is in keeping with the scale and character of the immediate area. The project would continue the character of the main GPO building along North Capitol Street, while providing a transition to the more moderately scaled Gonzaga buildings to

the north. The cornice which finishes the buildings aligns with the main cornice of the GPO building and the building at 800 North Capitol Street. Pedestrian entries to the office lobbies would be from the center of the facades on New Jersey Avenue and H Street and I Street.

24. Materials would consist of rusticated sandstone colored precast with a granite base on the first two stories. The upper floors would be composed of red brick pilasters and arches with precast trim. These would frame a deeply set infill of sandstone colored precast and painted aluminum windows. The mechanical penthouse similarly would be of brick and precast trim. The color scheme would relate to the Gonzaga buildings and the GPO Building, as well as the building at 800 North Capitol. Divided into base, middle, and attic stories with a substantial cornice, the design is modulated by a series of monumental brick pilasters and arches with precast trim. These are buttressed at the corners of the buildings by substantial brick piers with deeply set windows set off by brick jack arches, brick string courses and precast sills. The arches surround highly articulated facades of ornamental sandstone colored precast spandrels and colonnettes that divide the windows. These fixed double hung windows are designed to have molded profiles that complete the composition with a final layer of detail providing an appropriate range of scale and texture. The buildings would have no barriers to the handicapped and are designed in the context of traditional urbanism, separating clearly parking, loading and pedestrian access. Parking and loading entries would be along H Street and Eye Street. Their doors would be incorporated into the rhythm of the arched bays of the base.
25. The applicant would observe the following guidelines with respect to storefront signage:

Exterior signage would be limited to a sign band with 12" high (maximum) letters in any style appropriate to the retail establishment. The letters would either be backlighted or internally illuminated. Individual signage may also be provided by the retail tenants behind the storefront glass with the stipulation that it would not occupy greater than 25 percent of the storefront glazed area.

26. New sidewalk treatment and landscaping would be installed along New Jersey Avenue and along H Street and I Street. The landscaping and sidewalk treatment would meet or exceed streetscape standards, including London Walk 2'x3' precast pavers in trisected running bond, Zelkova trees on New Jersey Avenue and Northern Red Oaks on H and I Streets. The day care center lawn would be lushly planted with a variety of trees and soft grass turf.
27. The applicant has requested the flexibility to:
  - a. Increase the number of parking spaces by no more than 27 percent;
  - b. Reserve the right to build an additional level below-grade which would be occupied by the building's primary tenant or used as shared conference facilities, computer rooms, storage and like facilities. This additional level would not alter parking, FAR, heights, or the exterior appearance of the building;
  - c. Make minor adjustments in the facade window detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the type of paneling used on the retail frontages in order to accommodate the different type of retail uses;
  - d. Vary the location and design of any interior components, including partitions, structural slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, so long as the variations do not change the exterior configuration or appearance of the building including the penthouse and do not increase the height or floor area of the building. Moreover, notwithstanding the architectural plans, if a below-grade level is not needed for office, parking or storage, it may be excluded from construction;
  - e. Construct Buildings A and C as a single building so long as there is no change in the exterior appearance of the structure. It is understood that in the event of a single building, the land thereunder may be resubdivided into a single lot; and

- f. Construct the project in one, two or three phases. The day care center would be constructed in the first phase.

28. The applicant proposed the following project amenities:

- a. A Minority Educational Foundation would be funded with \$2 million plus \$30 per FAR foot approved by the Zoning Commission over 6.5 FAR. The foundation would be established as a nonprofit District of Columbia entity. The Foundation would be directed by a seven-member non-paid Board of Directors, which would include LuAnn L. Bennett, David Wilmot, Brigman Owens, the ANC Single Member District Representative for ANC-2C12, and three members to be appointed by the Joshua Group. The Foundation would control all activities carried out in and by the Day Care Center/Nursery School/Tutoring facility including the setting of fees and the awarding of scholarships. Day Care Center services would be provided to children of residents and area employees on the basis of need. The Foundation's charter would require that the Foundation utilize its funds to benefit and assist primarily children of parents or guardians who reside in or work in Census Tract #47. The Foundation would provide space in the Educational Facility at no charge for neighborhood senior citizens groups to meet at reasonable intervals and times, in the discretion of the Foundation. The Foundation would provide funding from its endowment for tutorial services. Such services could be provided directly by the Educational Facility or by third party groups such as the Higher Achievement Program (HAP);
- b. The applicant would construct an approximate 9,800 square foot Day Care Center/Nursery School/Tutoring facility, at the applicant's expense at a cost of approximately \$1 to \$1.5 million. This facility would provide day care, preschool and nursery school instruction and tutoring services for students in nearby D.C. public schools. The Day Care Center/Nursery School/Tutoring facility would use its resources to staff the facility with qualified educators and day care providers. The Day Care Center would be equipped with age-appropriate furniture and playground equipment. Parenting programs would also be

provided and the Center would provide services for children, ages one through five;

- c. The applicant would use reasonable efforts to lease to the retail uses listed in the Applicant's Participation Agreement with the Joshua Group;
  - d. The applicant proposes superior architectural and urban design;
  - e. The H Street Community Development Corporation would participate in the net profits of the development by receiving 15 percent of all monies from cash flow, net refinancing and sale proceeds generated by the development which would otherwise be distributed to the partners. These funds would be used by that CDC to provide and facilitate the development of housing, economic development and other charitable purposes, as specified in the Corporation's charter. The Participation Agreement between the applicant and the H Street CDC is in Exhibit No. 25, Tab C of the record and is incorporated herein by reference; and
  - f. An additional 15 percent of all monies from cash flow, net refinancing and sales proceeds generated by the development which would otherwise be distributed to the partners would instead be distributed to the Joshua Group which would use the funds exclusively to provide housing, educational and medical benefits for the residents of and those who work in Census Tract #47. This Participation Agreement dated September 24, 1990, (Exhibit No. 25, Tab B) as amended on May 20, 1997, (Exhibit No. 45) by and between the applicant and the Joshua Group, is a part of the record and is incorporated herein by reference; and
29. The project would create significant employment opportunities for workers at many levels. The applicant would participate in the District's First Source Employment Program to fill entry-level positions. An executed copy of a First Source Agreement is marked as Exhibit No. 33 of the record. In addition, the applicant has entered into a Memorandum of Understanding dated May 22, 1997, with the Department of Human Rights and Minority Business Development, committing itself to use best efforts to target up to 35 percent of the



contracts both during construction and after completion for minorities. An executed copy of the Memorandum of Understanding is marked as Exhibit No. 40 of the record.

30. The project would generate substantial increased revenue each year to the District from lease payments and from taxes on employee income, personal property, real property, retail sales, parking sales and franchising.
31. The proposed development would not impose any adverse traffic impact on the street network. The development would not create objectionable conditions for access and circulation, parking, or loading. The site is well located relative to public transportation facilities.
32. The proposed project would provide parking spaces for approximately 656 vehicles. Building A would provide 140 spaces, Building B would provide 306 spaces and Building C would provide 210 spaces. These spaces would more than meet the parking requirements of the Zoning Regulations.
33. The applicant has agreed to:
  - a. Participate in the regional ride-sharing program through RideFinders Network sponsored by the Metropolitan Washington Council of Governments. On-site activities for this program would be established as a responsibility of the staff of the management office for the building. These activities would include distributing ride-sharing information to all building tenants as they move in. Such materials would also be provided periodically to tenants so that they may distribute them to new hires or refer such people to the computer matching service;
  - b. Display transit route schedules and other commuter information;
  - c. Coordinate with the parking operator to grant preferred parking spaces in the building to carpools and vanpools; and
  - d. Provide a secure area within the building for commuter bicycles.

34. The applicant indicated that the PUD process is the appropriate mechanism for regulating development of the site. Approval of the PUD and rezoning would achieve the goals of the PUD process of promoting sound project planning, efficient and economical use of land, attractive urban design, and provision of public benefits.
35. The District of Columbia Office of Planning (OP), by memorandum dated May 12, 1997, and by testimony presented at the public hearing, recommended that the application be approved. OP stated the following:

The Generalized Land Use Map of the Comprehensive Plan designates the subject site for medium-high density commercial use. This large underutilized area represents a major commercial development opportunity area just north of Downtown for projects at the scale with the existing office building at H and North Capitol Streets. The site is also located within the vicinity of Union Station. The development community has been increasingly interested in office development in this area. Consequently, map changes to C-3-C zoning have been approved on various sites including 800 North Capitol Street at the northwestern corner of the intersection of North Capitol and H Streets NW (Z.C. Case No. 89-14C) in the same square in which the subject property is located. The project would replace a vacant lot with an architecturally significant complex of buildings that would go toward returning that part of the city to respectability and reuse, setting a standard for future architectural and economic development in the area of on both sides of North Capitol and H Streets.

The proposed amenity package contains a strong educational component. With the daycare center/nursery school/tutoring facility and the Minority Educational Foundation, the potential impact on young residents of the area would be extremely positive. In addition, monies made available to community groups out of net proceeds would fund housing, educational, and economic development projects well into the future. The Office of Planning recommends that this application be approved.

36. The District of Columbia Department of Public Works (DPW), by memorandum dated June 3, 1997, supported the proposal, stating the following:

The site was the subject of a DPW review in conjunction with Zoning Commission Case No. 90-13C. From a transportation standpoint our review indicates that in all relevant aspects, this proposal does not materially differ from the previously approved PUD and map amendment dated September 14, 1990. This report still represents accurately our assessment of the transportation elements of the present proposal. Accordingly, DPW has no objection to the project.

The Department of Public Works indicated that with regard to the sewer capacity the applicant should contact Department personnel to obtain information to resolve any outstanding issues. In conclusion, the Department recommended that the developer coordinate all construction streetscape and design elements within public space with the Department of Public Works and assume their cost.

37. The District of Columbia Fire Department did not respond but, by memorandum dated July 2, 1990, had no objections to the previous application.
38. The District of Columbia Metropolitan Police Department did not respond, but by letter dated August 23, 1990, had no objections to the previous PUD and map amendment application.
39. By letter of May 10, 1997, Lawrence L. Thomas, Chairperson, ANC 2C, wrote on behalf of the ANC in strong support of the project.
40. The North Capitol Neighborhood Development, Inc., party in the proceedings, supported the application by letter of May 20, 1997.
41. The Joshua Group supported the development by letter of May 27, 1997, speaking for Mt. Carmel Baptist Church, St. Aloysius Catholic Church, North Capitol Neighborhood Development, Inc., Center City Community Corporation, Second Baptist Church and Lawrence Thomas of ANC-2C12.

42. The H Street Community Development Corporation, by letter of May 19, 1997, wrote in support of the project as did Councilmember Jack Evans and Father Allen P. Novotny, S.J., President of Gonzaga College High School.
43. Margaret H. Blalock, Chairperson, Board of Trustees of the Mount Carmel Baptist Church and Edward Nesbitt, Executive Director of the Center City Community Corporation testified at the hearing in support of the project. In addition, Mr. Nesbitt wrote a supportive letter on behalf of the 4Cs.
44. No parties or persons opposed the application.
45. The Commission concurs with the applicant and finds that the project is appropriate for the site, and that the design, height, density, and scale are compatible with the neighborhood.
46. The Commission concurs with the position and/or recommendation of OP, DPW/ DCFD, MPD, and ANC-2C.
47. The Commission further concurs with the position of North Capitol Neighborhood Development, Gonzaga College High School, and the Center City Community Corp., and finds that the applicant has met and satisfied the intent and purpose of Chapter 24 of the Zoning Regulations.

The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated July 31, 1997 indicated that the PUD would not adversely affect the Federal Establishment or other Federal Interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

#### **CONCLUSIONS OF LAW**

1. The planned unit development process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the neighborhood and the District of Columbia.
2. The development of the project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the

development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter of-right development.

3. The development of the project is compatible with District-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital and the purposes of the Zoning Act.
5. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
6. The proposed action can be approved with conditions that ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. This application is subject to compliance with D.C. Law 2-39, the Human Rights Act of 1977, as amended.

#### **DECISION**

In consideration of the foregoing Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of a planned unit development and zoning map amendment from R-4 and C-2-A to C-3-C, for Lots 190-193 in Square 623, located on the northeast corner at the intersection of New Jersey Avenue and H Street, NW. The approval of the PUD and zoning map amendment is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the architectural plans of Hartman-Cox Architects, marked as Exhibit No.26 of the record, and the guidelines, conditions, and standards of this order.
2. The site shall be developed with three office buildings and a Day Care Center/Nursery School/Tutoring facility. The office

buildings shall include a mixture of general office and retail uses as permitted in the C-3-C District.

3. The floor area ratio (FAR) for the total project, the three office buildings, and the Day Care Center/Nursery School/Tutoring facility on the site shall not exceed 7.0. Office buildings A, B, and C shall have maximum gross floor areas, respectively, of 221,050; 519,520; and 381,320 square feet. The Day Care Center shall contain 9,800 square feet. Each building shall have a penthouse of approximately 15,000 square feet. The applicant shall provide not less than 8,000 square feet of retail gross floor area (GFA) on the first floor of Building C, and not less than 18,000 square feet of retail (GFA) on the first floor of Building B. The retail space shall front on H Street or New Jersey Avenue.
4. The height of buildings A, B, and C shall not exceed 87; 108; and 121 feet, respectively, excluding the penthouses. The height of the penthouses shall not exceed 18'6", nor shall the FAR of the penthouse exceed .37.
5. The combined lot occupancy shall not exceed 88 percent.
6. No rear yard shall be required for the project.
7. The three buildings A, B, and C shall include parking spaces for approximately 140; 306; and 210 vehicles, respectively. The spaces shall include full-size, compact, and handicapped spaces. Subject to the approval of the Department of Public Works, the applicant may use the vault space for parking.
8. The loading activity for the project shall consist of no less than 9 berths 30 feet long and 3 berths 20 feet long as requested by the Supplemental submission of May 8, 1997 and shall be located in accordance with the plans marked as Exhibit No. 26 of the record.
9. Landscaping shall be provided as shown on Exhibit No. 26 of the record.
10. The change of zoning from R-4 and C-2-A to C-3-C shall be effective upon recordation of the covenant as required by 11 DCMR 2409.3, if such change has not already been effected by order of the Zoning Commission.

11. Loading areas, driveways, and walkways shall be located on the site, as shown on the drawing marked as Exhibit No. 26 the Record.
12. The exterior of the buildings shall be as shown on drawings marked as Exhibit No. 26 of the Record. The penthouse walls shall match the finished facade material.
13. Exterior signage shall be limited to a sign band with letters no greater than 12 inches high, and in any style appropriate to the retail establishment. The letters shall either be back-lighted or internally illuminated. Individual signage may also be provided by the retail tenants behind the storefront glass, but shall not occupy greater than 25 percent of the storefront glazed area.
14. The applicant is granted flexibility with respect to the following matters:
  - a. Reducing the number of parking spaces by no more than five percent or increase them by no more than 27 percent;
  - b. Building an additional level below grade that would either be occupied by the building's primary tenant or be used as shared conference facilities, computer rooms, storage or similar facilities. This additional level shall not alter parking, FAR, height, or the exterior appearance of the building;
  - c. Making minor adjustments in the facade window detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the types of paneling used on the retail frontages in order to accommodate the different types of retail uses;
  - d. Varying the location and design of any interior components, including partitions, structural slabs, doors, hallways, columns, stairways, location of elevators, and electrical and mechanical rooms, so long as the variations do not change the exterior configuration or appearance of the building, including the penthouse, and do not increase the height or size of the building;

- e. Constructing Buildings A and C as a single building so long as there is no change in the exterior appearance of the structure. If the building is so unified, the land under Buildings A and C may be subdivided into a single lot; and
  - f. The applicant shall be afforded the flexibility provided by 11 DCMR 2409.6.
15. The applicant shall provide its amenity package as follows:
- a. The applicant shall comply with the Participation Agreement between the H Street Community Development Corporation and the applicant, (Exhibit No. 25, Tab C of the Record), a copy of which is incorporated herein by reference;
  - b. The applicant shall comply with the Participation Agreement between the Joshua Group and the applicant, (Exhibit No. 25, Tab B, and No. 45 of the Record), copies of which are incorporated herein by reference;
  - c. Before the issuance of a building permit, the applicant shall establish the Minority Educational Foundation as a nonprofit District of Columbia entity. Prior to the issuance of a certificate of completion, the Applicant shall provide funding to the Foundation of \$2 million dollars. Prior to the issuance of completion on the second office building, the applicant shall provide an amount equivalent to \$30 for each square foot of GFA that is generated by the amount of FAR approved by the Zoning Commission over 6.5 FAR; the Foundation shall use those funds or other grant monies to operate, control, and carry out activities in and out of the Day Care Center/Nursery School/Tutoring facility, primarily for those children whose parents reside or work in Census Tract #47; scholarships shall be awarded on the basis of need; the Foundation shall provide space free of charge in the Day Care Center building at reasonable intervals and times for a meeting facility for neighborhood senior citizens; from its endowment or from additional grants the Foundation shall provide funding for tutorial services, provided directly by the Educational Facility or by third party groups such as the Higher Achievement Program (HAP) to be provided



children of parents that reside or work in Census Tract #47;

- d. The applicant shall construct at its expense a Day Care Center/Nursery School/Tutoring facility costing not less than \$1 million dollars; the Day Care Center shall be equipped with age-appropriate furniture and playground equipment; construction of this facility shall be completed before the issuance of a certificate of occupancy for the first office building. In addition, the applicant shall use reasonable efforts to lease to the retail uses listed in its Participation Agreement with the Joshua Group;
  - e. For so long as the PUD remains, the applicant shall comply with the terms of its commitments in the Participation Agreements that are referenced in Paragraphs (a) and (b) of this condition; and
  - f. The Participation Agreements that are referenced in Paragraphs (a) and (b) of this condition shall not be amended, unless the proposed amendment has been submitted to the Zoning Commission for review and been approved by the Zoning Commission. The Zoning Commission reserves the discretion to determine the proceedings by which it will review proposed amendments. The Commission retains limited jurisdiction over this case for the purpose of reviewing any such proposed amendments.
16. The applicant shall comply with the terms of the Memorandum of Understanding (Exhibit 40), dated May 22, 1997, which applicant has entered into with the Department of Human Rights and Minority Business Development, which provides that the applicant will make a bona fide effort to award at least 35 percent of the construction-related contracts for the project to Certified Minority Business Enterprises.
17. The applicant shall also comply with the terms of the First Source Employment Agreement dated April 28, 1997, as executed by the applicant and the Department of Employment Services.
18. The applicant shall file with the Zoning Commission a copy of an annual report from the H Street Community Development Corporation and the Joshua Group. The following shall apply:

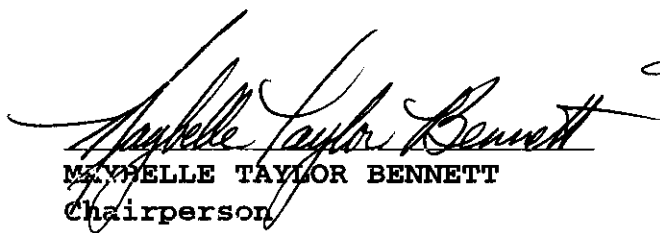
- a. The report shall be filed no later than March 31st of each year beginning in 1999;
  - b. The report shall be filed annually for the life of the partnership agreement between the applicant, and the H Street Community Development Corporation and the Joshua Group; and
  - c. The report shall identify the status (including goals, objectives and accomplishments) of all programs that are the result of each equity participation in the PUD project.
19. The PUD approved by the Zoning Commission shall expire if the following phasing schedule is not followed: within two years from the effective date of this order, an application must be filed for a building permit for the Day Care Center/Nursery School/Tutoring facility plus one or more office buildings. Construction of the first phase shall start within three years after the effective date of this order. The applicant shall then have an additional two (2) years following the last commencement of construction to apply for building permits for one or more additional office buildings, with construction to commence within a year after approval of the building permit. Application for a building permit for the remaining office building, if any, must be filed within two years after the last commencement of construction, with construction to commence within a year after approval of the building permit.
20. No building permit shall be issued for the PUD until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this order or any amendments thereto.
21. The Director, Office of Zoning shall not release the Record of this case to the Zoning Regulations Division of DCRA until the applicant has filed a certified copy of said covenant in the records of the Zoning Commission.

22. Pursuant to D.C. Code Section 1-2531 (1987), Section 267, of D.C., Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25, 1987, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulation Division/DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

By a vote of 4-0 taken at the conclusion of the public hearing on June 5, 1997, the Zoning Commission approved the application (Maybelle Taylor Bennett, Herbert M. Franklin, John G. Parsons, and Jerrily R. Kress to approve, subject to submission and approval of findings of fact and conclusions of law).

This order was adopted by the Zoning Commission at its public meeting on September 15, 1997 by a vote of 4-0: (John G. Parsons, Herbert M. Franklin, and Maybelle Taylor Bennett, to adopt, Jerrily R. Kress to adopt by absentee vote).

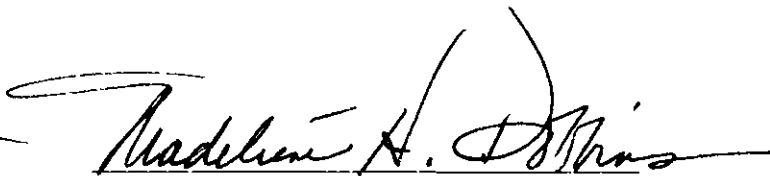
In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on OCT 24 1997.



MAYBELLE TAYLOR BENNETT

Chairperson

Zoning Commission



MADELIENE H. DOBBINS

Director

Office of Zoning